

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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TRUSTEES OF EMPIRE STATE CARPENTERS
ANNUITY, APPRENTICESHIP, LABOR-
MANAGEMENT COOPERATION, PENSION AND
WELFARE FUNDS,

Plaintiffs,

MEMORANDUM & ORDER
13-CV-5760 (JS) (SIL)

- against -

CLAUDE RODRIGUE d/b/a MR DRYWALL,
INC., C.R. DRYWALL CO., INC., C.R.
DRYWALL RESIDENTIAL, INC., and
MR DRYWALL, INC.,

Defendants.

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APPEARANCES

For Plaintiffs:

Charles R. Virginia, Esq.
Richard B. Epstein, Esq.
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New York, NY 10004

For Defendants:

Claude Rodrigue d/b/a
MR Drywall, Inc.,
C.R. Drywall
Residential, Inc., and
MR Drywall, Inc.

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C.R. Drywall Co., Inc.

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Albany, NY 12203

SEYBERT, District Judge:

Pending before the Court are: (1) Plaintiffs Trustees of Empire State Carpenters Annuity, Apprenticeship, Labor-Management Cooperation, Pension and Welfare Funds' ("Plaintiffs") motion for attorneys' fees and costs following the Court's entry of summary judgment in Plaintiffs' favor against Defendant Claude Rodrigue d/b/a MR Drywall, Inc. ("MR Drywall"), (Pls.' Mot., Docket Entry 80), and (2) Magistrate Judge Steven I. Locke's February 7, 2018 Report and Recommendation ("R&R") recommending that the Court grant Plaintiffs' motion and award Plaintiffs \$108,439.48 in attorneys' fees and costs, (R&R, Docket Entry 92). For the following reasons, the Court ADOPTS Judge Locke's R&R in its entirety.

BACKGROUND

Plaintiffs commenced this action on October 21, 2013, seeking, inter alia, to confirm and enforce an arbitration award against MR Drywall and to hold entities affiliated with MR Drywall jointly and severally liable for its obligations. (R&R at 3.) On August 25, 2016, Plaintiffs moved for summary judgment against MR Drywall, and this Court referred Plaintiffs' motion to Judge Locke on October 13, 2016 for a Report and Recommendation on whether it should be granted. (R&R at 3.) On January 25, 2017, Judge Locke recommended that Plaintiffs' motion be granted, that Plaintiffs be awarded damages in the amount of \$641,009.32, and

that Plaintiffs be granted leave to file a motion seeking attorneys' fees and costs. (R&R at 3.) On March 29, 2017, this Court overruled MR Drywall's and C.R. Drywall Residential, Inc.'s objections and adopted Judge Locke's January 25, 2017 Report and Recommendation in its entirety, granting Plaintiffs leave to move for attorneys' fees and costs. (R&R at 3-4.)

On May 17, 2017, Plaintiffs filed this motion for attorneys' fees and costs, which is unopposed, (R&R at 4), and which this Court referred to Judge Locke on October 13, 2017 for a Report and Recommendation on whether the motion should be granted, (Referral Order, Docket Entry 90.)

The R&R

Judge Locke issued the R&R on February 7, 2018, recommending that the Court grant the motion and award Plaintiffs \$108,439.48 in attorneys' fees and costs. (R&R at 1.) Judge Locke explained that because this Court previously concluded that Plaintiffs are entitled to recover attorneys' fees and costs, the "only issue presently before [Judge Locke], then, is whether the amounts sought by Plaintiffs are permissible under Second Circuit law." (R&R at 4.) Judge Locke found that Plaintiffs' counsels' hourly rates and the number of hours spent on this litigation were reasonable, and recommended that the Court award Plaintiffs \$105,065.00 in attorneys' fees. (R&R at 6-9.) Judge Locke also found that the costs incurred in this matter were reasonable and

necessary, and recommended that Plaintiffs be awarded \$3,374.48 in costs. (R&R at 9-10.)

DISCUSSION

In reviewing an R&R, a district court "may accept, reject, or modify, in whole or in part, the findings and recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). If no timely objections have been made, the "court need only satisfy itself that there is no clear error on the face of the record." Urena v. New York, 160 F. Supp. 2d 606, 609-10 (S.D.N.Y. 2001) (internal quotation marks and citation omitted).

Objections were due within fourteen (14) days of service of the R&R. The time for filing objections has expired, and no party has objected. Accordingly, all objections are hereby deemed to have been waived.

Upon careful review and consideration, the Court finds Judge Locke's R&R to be comprehensive, well-reasoned, and free of clear error, and it ADOPTS the R&R in its entirety.

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CONCLUSION

For the foregoing reasons, Judge Locke's R&R (Docket Entry 92) is ADOPTED in its entirety. Plaintiffs' motion (Docket Entry 80) is GRANTED and Plaintiffs are awarded \$108,439.48 in attorneys' fees and costs against Claude Rodrigue d/b/a MR Drywall, Inc. The Clerk of the Court is directed to enter judgment accordingly.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: February 26, 2018
Central Islip, New York